

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

Case No.: 15-CR-379 (PKC)

-against-

GEOVANNY FUENTES RAMIREZ,

Defendant.

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DEFENDANT’S PROPOSED EXAMINATION
OF PROSPECTIVE JURORS

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The Defendant Geovanny Fuentes Ramirez respectfully requests that the Court include the following questions in its examination of prospective jurors pursuant to Rule 24(a) of the Federal Rules of Criminal Procedure. The Court is requested to pursue more detailed questioning at sidebar or in the robing room if a particular juror’s answer reveals that further inquiry is appropriate and, in such an instance, to conclude with an inquiry as to whether the particular fact or circumstance would influence the juror in favor of or against either the Government or the defendant.

The Charges

1. This is a criminal case. The defendant is Geovanny Fuentes Ramirez. The defendant has been charged in an indictment with violating certain federal laws. The Indictment was filed by a grand jury sitting in this district.

2. I would like to summarize the charges in this case to determine whether there is anything about the case which may make it difficult or inappropriate for any of you to serve on this jury.

3. The Indictment consists of three counts. Count One charges that from about 2009, up to and including about 2020, Geovanny Fuentes Ramirez, together with others, conspired, to violate the federal narcotics laws by importing five (5) kilograms or more of cocaine into the United States; manufacturing or distributing five (5) kilograms or more of cocaine, knowing it would be imported into the United States, or possessing five (5) kilograms or more of cocaine with intent to distribute the cocaine on board an aircraft registered in the United States.

4. Count Two charges that from about 2009, up to and including about 2020, GEOVANNY FUENTES RAMIREZ, during and in relation to the cocaine importation conspiracy described above, knowingly used and carried firearms, and knowingly possessed machine guns and destructive devices in furtherance of the conspiracy.

5. Count Three charges that from about 2009, up to and including about 2020, GEOVANNY FUENTES RAMIREZ, during and in relation to the narcotics conspiracy charged in Count One, knowingly used and carried firearms, including machineguns capable of automatic shooting, as well as destructive devices.

Personal Challenges

6. Do any of you have any unusual hardship, work commitment, or personal obligation that will prevent you from serving in this case until sometime into early April 2021?

7. Do any of you have any unusual hardship with respect to the COVID pandemic that will prevent you from serving in this case?

8. Do any of you have any difficulty with your sight or hearing, or any other health problem, that might make it difficult for you to serve as a juror in this trial?

9. Do any of you have any religious, moral, philosophical, ethical, or other beliefs which would prevent you from passing judgment on another person?

Nature of the Charges

10. Do any of you have the opinion that the actions charged in the Indictment, as I described them, should not be crimes?

11. Do any of you feel that you cannot listen to the evidence and render a fair and impartial verdict in a case involving allegations of conspiracy, guns, and narcotics charges?

12. Does the mere fact that the Indictment alleges participation in a narcotics and weapons conspiracy lead you to believe Mr. Fuentes Ramirez is guilty?

13. Do any of you have the opinion that drug laws in our Country are too lenient or are not being enforced strongly enough?

14. Have any of you been charged with any felony or misdemeanor, in either federal, state or local court?

15. Have you or any of your family members or close friends ever had drug addiction problems? Have you or any of your family members or close friends ever overdosed on drugs? Have any of your family members or close friends ever died from a drug overdose?

16. Do any of you own a firearm? Have any of you received training in the use of firearms? Do any of you believe that the laws governing firearms possession are too strict or too lenient?

17. Do any of you have any opinion about the enforcement of gun laws that might prevent you from being fair and impartial in this case?

18. Have any of you ever lobbied, petitioned, or worked in any manner for or against any laws or regulations relating to the narcotics and firearm policies of the United States? Have

any of you ever supported or belonged to any organizations involved in such work?

19. The indictment listing the charges is the document used to advise Mr. Fuentes Ramirez of the accusations against him. The Indictment is not evidence. Mr. Fuentes Ramirez has pleaded not guilty to all charges in the Indictment. It is the Government that has the burden of proof. Under our system of laws, a person charged with a crime must be found not guilty unless the prosecution has provided you with proof beyond a reasonable doubt that that person has committed the crime with which he has been charged. Mr. Fuentes Ramirez has no obligation to produce any evidence or do anything else at trial. This is because Mr. Fuentes Ramirez is presumed to be innocent of the charges brought against him, and that presumption stays with him throughout this trial unless and until you find at the end of the case that the Government has proven his guilt beyond a reasonable doubt.

20. Does any juror in this panel have any reservations in accepting the principles of law I just recited?

21. Have you heard anything today that would influence your ability to be a fair and impartial juror in this case?

22. Does any juror believe that just because Mr. Fuentes Ramirez has been accused of various crimes, he is likely to be guilty?

23. Have any of you formed an opinion that Mr. Fuentes Ramirez is guilty of the crimes though you have not heard any evidence yet?

24. Do any of you have any preconceived ideas or prejudices that would prevent or hinder you from following the instructions the Court gives you as to the law?

25. Does any juror believe that a person accused of a crime has an obligation to prove that he is not guilty?

26. Under our system of laws and our constitution, a defendant in a criminal case has the right to testify in his own defense but is not obligated to do so. If a defendant decides not to testify, you may not consider that decision or hold it against him in any way. Does any juror have any reservations about following that principle of law?

27. Does any juror believe that if a defendant is really innocent, he should testify in his own defense?

28. In this case, you may hear that Mr. Fuentes Ramirez was held in pre-trial detention following his arrest in connection with this case. Does any juror think that just because Mr. Fuentes Ramirez was held in pre-trial detention, it is more likely that he is guilty of the charges against him?

Knowledge of the Events

29. Does any juror have any personal knowledge of the charges as I have described them? Have you read or heard anything about this case?

30. Have you read or heard anything related to alleged corruption involving the President of Honduras or other high ranking members of the Honduran Government, military or police? (To be asked only if the Court rules such evidence admissible).

31. Have you read or heard anything related to narcotics trafficking from Latin America into the United States?

32. Do you have any knowledge of a similar sounding, but perhaps different case, which might affect your ability to be fair and impartial in this case?

Knowledge of the Trial Participants

33. Do any of you know, or have you had any dealings, directly or indirectly, with Mr. Fuentes Ramirez or with any relative, friend, or associate of Mr. Fuentes Ramirez?

34. Have any of your relatives, friends, associates, employers, or employees know or had any dealings with Mr. Fuentes Ramirez, or with any relative, friend, or associate of Mr. Fuentes Ramirez?

35. Do any of you speak Spanish? One or more witnesses will testify using the Spanish language, translated by a court-certified interpreter. Even if you speak Spanish, you are obligated to accept the translations of witness testimony provided to you by the court-certified interpreter. Would you be unwilling or unable to follow the Court's instruction on this subject?

36. Mr. Fuentes Ramirez is a native of Honduras whose first language is Spanish. As a result, throughout the trial, Mr. Fuentes Ramirez will be using the services of an interpreter. Do any of you feel that you cannot be fair and impartial simply because Mr. Fuentes Ramirez was born in Honduras or because he is a Spanish speaker?

37. The Government is represented here, as in all cases where it is a party before this Court, by the United States Attorney for the Southern District of New York, who is AUDREY STRAUSS. The conduct of the trial will be in the immediate charge of Assistant United States Attorneys Jacob Gutwillig, Matthew Laroche, Jason Richman, and Elinor Tarlow.

[Please ask the Assistants to stand.]

Do any of you know Ms. Strauss, Mr. Gutwillig, Mr. Laroche, Mr. Richman or Ms. Tarlow? Have you or your family members or close friends had any dealings either directly or indirectly with them? Mr. Gutwillig, Mr. Laroche, Mr. Richman and Ms. Tarlow will also be assisted in this case by Special Agent Brian Fairbanks of the Drug Enforcement Agency, and Ms. Morgan Hurst a paralegal specialist in the United States Attorney's office.

[Please ask Agent Fairbanks and Ms. Hurst to stand.]

Have you or your family members or close friends had any dealings either directly or indirectly with Agent Fairbanks or Ms. Hurst? Have you or your family members or close friends had any dealings either directly or indirectly with the United States Attorney's Office? The FBI?

38. Geovanny Fuentes Ramirez is represented by attorneys Avraham Moskowitz, Chris Neff, and Eylan Schulman. Do any of you know any of these attorneys? Has any juror had any dealings, either directly or indirectly, with any of them?

39. I will now read you a list of names of individuals who may be mentioned during the trial or who may be witnesses in this case as well as locations that may be mentioned.

Names

[Names & Places to be filed by the Government in advance of trial]

Locations

[Names & Places to be filed by the Government in advance of trial]

Do any of you know any of these people? Has any juror had any dealings, either directly or indirectly, with any of these individuals or locations?

Relationship with Government

40. Does any juror know, or have any association – professional, business, or social, direct or indirect – with any member of the staff of the United States Attorney's Office for the Southern District of New York, the FBI, the Drug Enforcement Administration, the Bureau of Alcohol Tobacco and Firearms or the New York City Police Department? Is any member of any juror's family employed by any law enforcement agency, whether federal, state or local?

41. Has any juror – either through any experience he or she has had or anything he or she has seen or read – developed any bias or prejudice for or against the United States Attorney’s Office, the FBI, DEA, ATF, the New York City Police Department, or any police or sheriff’s department?

42. Has any juror, or has any member of any juror’s family, either as an individual or in the course of his or her business, ever been a party to any legal action or dispute with the United States or any of the officers, departments, agencies, or employees of the United States, or had any interest in any such legal action or dispute or its outcome?

43. Criminal defense attorneys play an important role in our system of justice. It is their job to defend people accused of crimes and to hold the Government to its burden of proof so that no person is convicted unless the Government can prove them guilty beyond a reasonable doubt. It is part of a defense lawyer’s job to object to evidence when appropriate and to cross-examine witnesses called by the Government. Has any juror, based on any experience you have had or anything you have seen or heard or read, developed any personal feelings or opinions about criminal defense attorneys that would make it difficult for you to be fair and impartial to Mr. Fuentes Ramirez?

Prior Jury Service

44. Has any juror ever served as a member of a grand jury, whether in federal, state, county, or city court? If so, when and where? Do you understand that the function of a trial jury is much different than a grand jury? Do you understand that the burden of proof that a trial jury must apply is beyond a reasonable doubt, which is much higher than the standard applied by a grand jury?

45. Has any juror ever served as a juror in a trial in any court? If so, in what court did he or she serve and was it a civil or criminal case? What type of case was it?

46. Did the jury reach a verdict?

47. If you sat in a civil case, do you understand that the burden of proof used in a criminal case is much higher than the one used in a civil case?

Experience As A Witness, Defendant, Or Crime Victim

48. Has any juror or any relative or close friend ever been involved or appeared as a witness in any investigation by a federal or state grand jury or by a congressional or state legislative committee, licensing authority, or governmental agency, or been questioned in any matter by a federal, state, or local law enforcement agency?

49. Has any juror or any relative or close friend ever been a witness or a complainant in any hearing or trial, whether state, local, or federal?

50. Is any juror, or is any member of his or her family, or a close friend, now under subpoena or, to the best of the juror's knowledge, about to be subpoenaed in any criminal case?

51. Has any juror, or has any member of any juror's family, or any associate or close friend, ever been charged with a crime?

52. Has any juror, or has any relative, associate, or close friend ever been the subject of any investigation or accusation by any federal or state grand jury?

53. Has any juror or any friend, associate, or relative ever been a victim of a crime?

[As to any juror who answers affirmatively, the Court is respectfully requested to inquire, at the bench or in the robing room, into the circumstances of the crime.]

Views on Witnesses and Investigative Techniques

54. The witnesses in this case will include federal law enforcement personnel. The credibility of law enforcement witnesses is to be judged by the same standards as any other witness. Would any juror be more likely or less likely to believe a witness merely because he or she is a law enforcement officer?

55. You may hear testimony from people who claim to be eyewitnesses to certain events. Does anyone believe that eyewitness testimony must be true and accurate?

56. You may also hear testimony from witnesses who claim to be experts in a particular field. I want to advise you that the use of experts in the context of this case is legal and is sometimes necessary to help juror's understand certain parts of the case. Notwithstanding, does any juror feel an expert witness is entitled to more credibility than a witness who is not an expert?

Persons Not On Trial

57. The defendant is charged with acting with others, including persons not on trial here. The jury may not draw any inference, favorable or unfavorable, towards the Government or Mr. Fuentes Ramirez from that fact. The jury also may not speculate as to the reason why other persons are not on trial. Is there any juror who cannot follow this instruction or who for this reason would have difficulty rendering a fair and impartial verdict?

58. During the trial you may hear testimony from witnesses who have pleaded guilty to the charges contained in the indictment in this case. Guilt is a personal matter. The fact that a witness has pleaded guilty to one or more of the charges at issue in this case cannot be considered by you in determining whether Mr. Fuentes Ramirez is guilty of those charges. Do any of you think that just because a witness has pleaded guilty to the charges in this case, he is

entitled to more or less credibility? Do any of you believe that just because a witness has pleaded guilty to the charges in this case, it means that the defendant on trial must also be guilty?

Other Questions

59. Does any juror have any difficulty in reading or understanding English in any degree?

60. I do not know if the case will generate publicity, but if it does, will each of you accept the proposition that you should absolutely avoid reading about this case in the newspapers or on the Internet or listening to any radio or television reports concerning the case until after it is over? If not, please raise your hand.

Function of the Court and Jury

61. The function of the jury is to decide questions of fact. You are the sole judge of the facts and nothing that the Court or lawyers say or do may encroach in any way on your role as the exclusive fact-finder. When it comes to the law, however, you are to take your instructions from the Court, and you are bound by those instructions. You may not substitute your own notions of what the law is, or what you think it should be. At the conclusion of the case, your job will be to determine whether or not Mr. Fuentes Ramirez is guilty as charged in the Indictment beyond a reasonable doubt. Do any of you have any bias or prejudice that might prevent or hinder you from accepting the instructions of law that I will give you in this case?

62. Will each of you accept the proposition that the question of punishment is for the Court alone to decide, and that the possible punishment must not enter into your deliberations as to whether the defendant is guilty?

63. Do any of you have any legal training, or have any relative or close friend who is an attorney? If so, would this for any reason prevent you from applying the law in this case as

stated by the Court? Will each of you accept my instruction that you are not to discuss the case with anyone, including attorneys you may know, until you are excused as jurors?

Other Biases

64. In these questions, I have tried to direct your attention to possible reasons why you might not be able to sit as a fair and impartial juror. Apart from any prior questions, does any juror have the slightest doubt in his or her mind, for any reasons whatsoever, that he or she would be able to serve conscientiously, fairly, and impartially in this case and to render a true and just verdict without fear, favor, sympathy, or prejudice, and according to the law as it will be explained?

Juror's Background

65. The Defense respectfully requests that the Court ask each juror to state the following information:

- (a) the juror's occupation;
- (b) the name of the juror's employer;
- (c) the period of employment with that employer;
- (d) the nature of the juror's work;
- (e) the same information concerning other employment within the last five years;
- (f) the same information with respect to the juror's spouse and any working children;
- (g) the area in which the juror currently resides and any other area in which the juror has resided during the last five years;
- (h) whether the juror owns his or her own home, and, if owned, how long the juror has owned his or her home;

- (i) the educational background of the juror, including the highest degree obtained;
- (j) newspapers and magazines regularly read by the juror;
- (k) crime stories or criminal cases followed in the news;
- (l) television programs regularly watched by the juror;
- (m) social media websites, such as Facebook, Twitter, or You Tube, used by the juror on a regular basis; and
- (n) the names of any clubs or associations to which the juror belongs.

Ability To Be Fair And Impartial

66. The jurors in this case will be required to take an oath that they will decide the facts in this case according to the evidence and the law as I give it to you, and that they will do so without fear or favor to any person. Is there anything about this case that may prevent any juror from following that oath?

67. Is there any matter that you should call to the court's attention that would make it impossible for you to render a fair and impartial verdict based solely on the evidence or the lack thereof and the Court's instructions on the law? If yes, please explain.

68. Does any juror have any feelings at all, including any bias, sympathy, or prejudice, caused by anything you have read, heard or seen or caused by any other reason, which would make it difficult for you to render a fair and impartial judgment based solely on the evidence presented at trial?

69. Do you have any reason at all that you now wish to disclose to me privately why you do not want to, or should not, sit as jurors in this case?

Requested Instructions Following Impaneling Of The Jury

70. From this point on, until you retire to deliberate on your verdict, it is your duty not to discuss this case and not to remain in the presence of other persons who may be discussing this case. This rule about not discussing the case with others includes discussions even with members of your own family or friends.

71. I know that many of you use cellphones, smartphones, Blackberries, the Internet and other tools of technology. You also must not talk to anyone about this case or use these tools to communicate electronically with anyone about the case. This includes your family and friends. You may not communicate with anyone about the case on your cell phone, through e-mail, Blackberry, iPhone, text messaging, or on Twitter, through any blog or website, through any internet chat room, or by way of any other social networking websites, including Facebook, My Space, LinkedIn, and YouTube. See United States v. Ganius, 12-240 Cr, at 15 (2d Cir. June 17, 2014).

72. If at any time during the course of this trial, any person attempts to talk to you or to communicate with you about this case, either in or out of the courthouse, you should immediately report such an attempt to me.

73. In this regard, let me explain to you that the attorneys and the defendant in a case are not supposed to talk to jurors, even to offer a friendly greeting. So if you happen to see any of them outside this courtroom they will, and should, ignore you. Please do not take offense. They will only be acting properly by doing so.

74. If anything should happen involving any of you that is of an unusual nature, or which you think is something the Court should be told about, do not discuss it with any other juror. Simply give the clerk a note to the effect that you want to speak to me about it and I can

then hear what it is and what you have to say. Of course, I do not expect anything unusual or improper to happen.

Dated: New York, New York
January 27, 2020

Respectfully submitted,

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